

An act to amend Sections 25244.12, 25244.13, 25244.14, 25244.15, 25244.15.1, 25244.16, 25244.17, 25244.17.1, 25244.17.2, 25244.18, 25244.19, 25244.21, 25244.22, and 25244.23 of, to amend the heading of Article 11.9 (commencing with Section 25244.12) of Chapter 6.5 of Division 20 of, to add Sections 25244.01 and 25244.13.1 to, and to repeal Section 25244.24 of, the Health and Safety Code, relating to hazardous materials, and making an appropriation therefor, to take effect immediately, bill related to the budget.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25244.01 is added to the Health and Safety Code, to read:

25244.01. (a) Except as provided in subdivision (b), the department's duty to implement this article is contingent upon, and limited to, the availability of funding.

(b) Subdivision (a) does not apply to Section 25244.4.

SEC. 2. The heading of Article 11.9 (commencing with Section 25244.12) of Chapter 6.5 of Division 20 of the Health and Safety Code is amended to read:

Article 11.9. Pollution Prevention and Hazardous Waste Source Reduction and Management Review Act of 1989

SEC. 3. Section 25244.12 of the Health and Safety Code is amended to read:

25244.12. This article shall be known and may be cited as the Pollution Prevention and Hazardous Waste Source Reduction and Management Review Act of 1989.

SEC. 4. Section 25244.13 of the Health and Safety Code is amended to read:

25244.13. The Legislature finds and declares as follows:

(a) Existing law requires the department and the State Water Resources Control Board to promote the reduction of generated hazardous waste. This policy, in combination with hazardous waste land disposal bans, requires the rapid development of new programs and incentives for achieving the goal of optimal minimization of the generation of hazardous wastes. Substantial improvements and additions to the state's



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hazardous waste reduction program are required to be made if these goals are to be achieved.

(b) Hazardous waste source reduction provides substantial benefits to the state's economy by maximizing use of materials, avoiding generation of waste materials, improving business efficiency, enhancing revenues of companies that provide products and services in the state, increasing the economic competitiveness of businesses located in the state, and protecting the state's precious and valuable natural resources.

(c) It is the intent of the Legislature to expand the state's ~~hazardous waste source reduction activities~~ pollution prevention activities beyond those directly associated with source reduction evaluation reviews and plans. The expanded program, which is intended to accelerate ~~reduction in hazardous waste generation~~ pollution prevention, shall include programs to promote implementation of ~~source reduction~~ pollution prevention measures using education, outreach, and other effective voluntary techniques demonstrated in California or other states.

(d) It is the intent of the Legislature for the department to maximize the use of its available resources in implementing the ~~expanded source reduction~~ pollution prevention program through cooperation with other entities, including, but not limited to, CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs. To the extent feasible, the department shall utilize cooperative programs with entities that routinely contact small business to expand its support of small business ~~source reduction~~ pollution prevention activities.

(e) It is the goal of this article to do all of the following:



(1) Reduce the generation of hazardous waste.

(2) Reduce the release into the environment of chemical contaminants ~~which~~
that have adverse and serious health or environmental effects.

(3) Document hazardous waste management information and make that
information available to state and local government.

(f) It is the intent of this article to promote the reduction of hazardous waste at
its source, and wherever source reduction is not feasible or practicable, to encourage
recycling. Where it is not feasible to reduce or recycle hazardous waste, the waste
should be treated in an environmentally safe manner to minimize the present and future
threat to health and the environment.

(g) It is the intent of the Legislature not to preclude the regulation of
environmentally harmful releases to all media, including air, land, surface water, and
groundwater, and to encourage and promote the reduction of these releases to air, land,
surface water, and groundwater.

(h) It is the intent of the Legislature to encourage all state departments and
agencies, especially the State Water Resources Control Board, the California regional
water quality control boards, the State Air Resources Board, the air pollution control
districts, and the air quality management districts, to promote the reduction of
environmentally harmful releases to all media.

SEC. 5. Section 25244.13.1 is added to the Health and Safety Code, to read:

25244.13.1. (a) The department's duties to implement this article are contingent
upon, and limited to, the availability of funding.



(b) Subdivision (a) does not eliminate a requirement of this article that is imposed upon a generator.

SEC. 6. Section 25244.14 of the Health and Safety Code is amended to read:

25244.14. For purposes of this article, the following definitions apply:

(a) “Advisory committee” means the California ~~Source Reduction~~ Pollution Prevention Advisory Committee established pursuant to Section 25244.15.1.

(b) “Appropriate local agency” means a county, city, or regional association that has adopted a hazardous waste management plan pursuant to Article 3.5 (commencing with Section 25135).

(c) “Business” has the same meaning as defined in Section 25501.

(e)

(d) “Hazardous waste management approaches” means approaches, methods, and techniques of managing the generation and handling of hazardous waste, including source reduction, recycling, and the treatment of hazardous waste.

(d)

(e) “Hazardous waste management performance report” or “report” means the report required by subdivision (b) of Section 25244.20 to document and evaluate the results of hazardous waste management practices.

(f) “NAICS Code” means the identification number assigned to specific types of businesses by the North American Industry Classification System (NAICS) adopted by the United States Census Bureau.



(g) "Pollution prevention" means the reduction of chemical sources that have adverse impacts on public health and the environment, including, but not limited to, source reduction.

(h) "SIC Code" means the identification number assigned to specific types of businesses by the Standard Industrial Classification (SIC) system established by the United States Department of Commerce.

(e)

(i) (1) "Source reduction" means one of the following:

(A) ~~Any~~ An action that causes a net reduction in the generation of hazardous waste.

(B) ~~Any~~ An action taken before the hazardous waste is generated that results in a lessening of the properties ~~which~~ that cause it to be classified as a hazardous waste.

(2) "Source reduction" includes, but is not limited to, all of the following:

(A) "Input change," which means a change in raw materials or feedstocks used in a production process or operation so as to reduce, avoid, or eliminate the generation of hazardous waste.

(B) "Operational improvement," which means improved site management so as to reduce, avoid, or eliminate the generation of hazardous waste.

(C) "Production process change," which means a change in a process, method, or technique ~~which~~ that is used to produce a product or a desired result, including the return of materials or their components, for reuse within the existing processes or operations, so as to reduce, avoid, or eliminate the generation of hazardous waste.



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(D) "Product reformulation," which means changes in design, composition, or specifications of end products, including product substitution, so as to reduce, avoid, or eliminate the generation of hazardous waste.

(3) "Source reduction" does not include any of the following:

(A) Actions taken after a hazardous waste is generated.

(B) Actions that merely concentrate the constituents of a hazardous waste to reduce its volume or that dilute the hazardous waste to reduce its hazardous characteristics.

(C) Actions that merely shift hazardous wastes from one environmental medium to another environmental medium.

(D) Treatment.

(f)

(j) "Source reduction evaluation review and plan" or "review and plan" means a review conducted by the generator of the processes, operations, and procedures in use at a generator's site, in accordance with the format established by the department pursuant to subdivision (a) of Section 25244.16, and that does both of the following:

(1) Determines any alternatives to, or modifications of, the generator's processes, operations, and procedures that may be implemented to reduce the amount of hazardous waste generated.

(2) Includes a plan to document and implement source reduction measures for the hazardous wastes specified in paragraph (1) that are technically feasible and economically practicable for the generator, including a reasonable implementation schedule.



~~(g) "SIC Code" has the same meaning as defined in Section 25501.~~

~~(h)~~

~~(k) "Hazardous waste," "person," "recycle," and "treatment" have the same meaning meanings as defined in Article 2 (commencing with Section 25110).~~

SEC. 7. Section 25244.15 of the Health and Safety Code is amended to read:

25244.15. (a) ~~The department shall establish~~ This article establishes a program for pollution prevention, including, but not limited to, hazardous waste source reduction ~~pursuant to this article.~~

(b) The department shall coordinate the activities of all state agencies with responsibilities and duties relating to hazardous waste and shall promote coordinated efforts to encourage the reduction of hazardous waste. Coordination between the program and other relevant state agencies and programs shall, to the fullest extent possible, include joint planning processes and joint research and studies.

(c) The department shall adopt regulations to carry out ~~this~~ the requirements imposed upon generators pursuant to this article.

(d) (1) Except as provided in paragraph (3), ~~this article applies~~ Sections 25244.19, 25244.20, and 25244.21 apply only to generators who, by site, routinely generate, through ongoing processes and operations, more than 12,000 kilograms of hazardous waste in a calendar year, or more than 12 kilograms of extremely hazardous waste in a calendar year.

(2) The department shall adopt regulations to establish procedures for exempting generators from the requirements of this article where the department determines that no source reduction opportunities exist for the generator.



(3) Notwithstanding paragraph (1), ~~this article does~~ Sections 25244.19, 25244.20, and 25244.21 do not apply to any generator whose hazardous waste generating activity consists solely of receiving offsite hazardous wastes and generating residuals from the processing of those hazardous wastes.

SEC. 8. Section 25244.15.1 of the Health and Safety Code is amended to read:

25244.15.1. (a) The California ~~Source Reduction~~ Pollution Prevention Advisory Committee is hereby created and consists of the following members:

(1) The Executive Director of the State Air Resources Board, as an ex officio member.

(2) The Executive Director of the State Water Resources Control Board, as an ex officio member.

(3) The Director of Toxic Substances Control, as an ex officio member.

(4) The ~~Executive Director of the Integrated Waste Management Board~~ Resources Recycling and Recovery, as an ex officio member.

(5) The Chairperson of the California Environmental Policy Council established pursuant to Section 71017 of the Public Resources Code, as an ex officio member.

(6) The Director of Pesticide Regulation, as an ex officio member.

~~(6)~~

(7) Ten public members with experience in ~~source reduction~~ pollution prevention as appointed by the department. These public members shall include all of the following:

(A) Two representatives of local governments from different regions of the state.

(B) One representative of a publicly owned treatment works.

(C) Two representatives of industry.



- (D) One representative of small business.
- (E) One representative of organized labor.
- (F) Two representatives of statewide environmental advocacy organizations.
- (G) One representative of a statewide public health advocacy organization.
- ~~(7)~~

(8) The department may appoint up to two additional public members with experience in ~~source reduction~~ pollution prevention and detailed knowledge of one of the priority categories of ~~generators~~ businesses selected in accordance with Section 25244.17.1.

(b) The advisory committee shall select one member to serve as chairperson.

(c) The members of the advisory committee shall serve without compensation, but each member, other than officials of the state, upon request, shall be reimbursed for all reasonable expenses incurred in the performance of his or her duties, as authorized by the department.

(d) ~~The~~ When convened by the department, the advisory committee shall ~~meet at least semiannually to~~ provide a public forum for discussion and deliberation on matters pertaining to the implementation of this chapter.

(e) The advisory committee's responsibilities shall include, but not be limited to, the following:

(1) Reviewing and providing consultation and guidance in the preparation of the work plan ~~required~~ authorized by Section 25244.22.

(2) Evaluating the performance and progress of the department's ~~source reduction~~ pollution prevention program.



(3) Making recommendations to the department concerning program activities and funding priorities, and legislative changes, if needed.

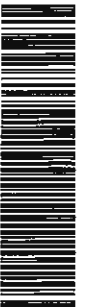
(4) Making recommendations to the department concerning strategies to more effectively align its pollution prevention program with the goals of the department's green chemistry program, including the implementation of Article 14 (commencing with Section 25251).

~~(f) The advisory committee established by this section shall be in existence until April 15, 2002, by which date the department shall, in consultation with the advisory committee, evaluate the role and activities of the advisory committee and determine if the committee is beneficial to the implementation of this article. On and after April 15, 2002, the advisory committee shall continue to exist and operate to the extent that the department, in consultation with the advisory committee, determines the advisory committee continues to be beneficial to the operation of the department's source reduction programs.~~

SEC. 9. Section 25244.16 of the Health and Safety Code is amended to read:

25244.16. The department shall do both of the following:

(a) Adopt a format to be used by generators for completing the review and plan required by Section 25244.19, and the report required by Section 25244.20. The format shall include at least all of the factors the generator is required to include in the review and plan and the report. The department may include any other factor determined by the department to be necessary to carry out this article. The adoption of a format pursuant to this subdivision is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.



(b) Establish a data and information system to be used by the department ~~for developing the categories of generators specified in Section 25244.18, and for processing and evaluating the source reduction and other hazardous waste management information submitted by generators pursuant to Section 25244.18.~~ In establishing the data and information system, the department shall do all of the following:

(1) Establish methods and procedures for appropriately processing or managing hazardous waste source reduction and management information.

(2) Use the data management expertise, resources, and forms of already established environmental protection programs, to the extent practicable.

(3) Establish computerized data retrieval and data processing systems, including safeguards to protect trade secrets designated pursuant to Section 25244.23.

(4) Identify additional data and information needs of the program.

SEC. 10. Section 25244.17 of the Health and Safety Code is amended to read:

25244.17. The department ~~shall~~ may establish a technical and research assistance program to assist ~~generators~~ businesses in identifying and applying methods of ~~source reduction and other hazardous waste management approaches~~ pollution prevention. The program shall emphasize assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing ~~source reduction~~ pollution prevention methods, and developing and applying ~~source reduction~~ pollution prevention techniques. The program ~~shall include at least all of the following elements, which shall be carried out by the department~~ carried out by the department pursuant to this section may include, but is not limited to, each of the following:



(a) ~~The department shall encourage programs~~ Programs by private or public consultants, including onsite consultation at sites or locations where hazardous waste is generated, to aid those generators requiring assistance in developing and implementing the review and plan, the plan summary, the report, and the report summary required by this article.

(b) ~~The department shall conduct review and plan assistance programs, seminars, Seminars, workshops, training programs, and other similar activities to assist generators to evaluate source reduction alternatives and to identify opportunities for source reduction businesses to evaluate pollution prevention alternatives and to identify opportunities for pollution prevention.~~

(c) ~~The department shall establish a program to assemble, catalogue, and disseminate information about hazardous waste source reduction methods, Assembling, cataloging, and disseminating information about pollution prevention methods, available consultant services, and regulatory requirements.~~

(d) ~~The department shall identify the range of generic and specific technical solutions that can be applied by particular types of hazardous waste generators to reduce hazardous waste generation. The identification of a range of generic and specified technical pollution prevention solutions that can be applied by particular types of businesses.~~

SEC. 11. Section 25244.17.1 of the Health and Safety Code is amended to read:

25244.17.1. The department ~~shall~~ may establish a technical assistance and outreach program to promote implementation of model ~~source reduction~~ pollution prevention measures in priority ~~industry~~ business categories.



(a) ~~Every two years, in the work plan required by Section 25244.22, the department shall, in consultation with the advisory committee, select at least four priority categories of generators by SIC Code. At least one selected category of generators shall be taken from the list of categories previously selected by the department under Section 25244.18. At least one selected category of generators shall be a category that consists primarily of small businesses. At least one selected category of generators~~ In the work plan described in Section 25244.22, the department may, in consultation with the advisory committee, identify priority categories of businesses by SIC or NAICS Code. At least one selected category of businesses shall be a category that consists primarily of small businesses. At least one selected category of businesses shall be a category that consists primarily of businesses affected by an action taken by the department pursuant to Article 14 (commencing with Section 25251) of Chapter 6.5 of Division 20.

(b) For each selected priority ~~industry~~ business category, the department ~~shall~~ may implement a cooperative ~~source reduction~~ pollution prevention technical assistance and outreach program ~~to include~~ that includes the following elements:

(1) ~~The department shall use available resources, including reports prepared pursuant to paragraph (4) of subdivision (a) of Section 25244.18 and information on source reduction methods from federal, state, and local governments and industry associations and industry members, to identify a set of model source reduction measures~~ Effective pollution prevention measures for each industry business category.

(2) ~~The department shall determine, with the assistance of the advisory committee, the most effective technical assistance and outreach methods to promote implementation~~



of the ~~model source reduction measures~~ pollution prevention measures identified in paragraph (1).

~~(3) The department shall develop a plan and schedule to implement the technical assistance and outreach measures before the next biennial work plan. The measures may include, but are not limited to, all of the following:~~

~~(A) Holding, presenting at, or cosponsoring workshops, conferences, technology fairs, and other promotional events.~~

~~(B) Developing and distributing educational materials, such as short descriptions of successful source reduction projects.~~

~~(C) Developing checklists, training manuals, and technical resource manuals and using those resources to train CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs.~~

~~(D) Preparing and distributing resource lists, such as lists of vendors, consultants, or providers of financial assistance for source reduction projects.~~

~~(E) Serving as an information clearinghouse to support telephone and onsite consultations with businesses and local governments.~~

~~(4) For industry categories that include primarily large or technically complex businesses, the source reduction technical assistance and outreach program shall emphasize activities that involve direct communication between department staff and industry members. For these industry categories, the department shall communicate with representatives of 80 percent of the state's companies in the category. For categories that consist primarily of small businesses, the cooperative source reduction~~



~~program shall emphasize providing industry-specific training and resources to CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs for use in their inspections and other direct communications with businesses.~~

~~(c) While conducting activities under this section, the department shall coordinate its activities with appropriate industry and professional associations.~~

~~(d) The department shall coordinate activities under this section with grants made under Section 25244.5.~~

(3) Appropriate measures for evaluating the effectiveness of the technical assistance and outreach measures, including quantitative measures when feasible.

SEC. 12. Section 25244.17.2 of the Health and Safety Code is amended to read:

25244.17.2. (a) (1) The department shall expand the department's source reduction program to provide source reduction may provide pollution prevention training and resources to CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs so that they can provide technical assistance to generators businesses in identifying and applying methods of source reduction pollution prevention.

(a)

(2) The program expanded pursuant to this section activities conducted pursuant to paragraph (1) shall emphasize activities necessary to implement Sections 25244.17 and 25244.17.1.

(b) As part of implementing the program required authorized by this section, the department shall may develop a California Green Business Program that provides



support and assistance to programs operated by local governments to meet the requirement of subdivision (c) and that would voluntarily certify small businesses that adopt environmentally preferable business practices, including, but not limited to, increased energy efficiency, reduced greenhouse gas emissions, promotion of water conservation, and reduced waste generation. The department's California Green Business Program ~~shall~~ may do any or all of the following:

(1) Assist the network of statewide local government programs in implementing guidelines and structures that establish and promote a level of consistency among green business programs across the state.

(2) Support, through staffing and contracts, the development and maintenance of a statewide database to register small businesses granted green business certification, or its equivalent, pursuant to a local government program, and track measurable pollution reductions and cost savings.

(3) Solicit participation of additional local programs and facilitate the startup of new local programs.

(4) Develop technical guidance on pollution prevention measures, conduct industry studies and pilot projects, and provide policy coordination for the participating local programs.

(5) Collaborate with relevant state agencies that operate small business efficiency and economic development programs, including, but not limited to, the Department of Resources Recycling and Recovery, the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, the State Air Resources Board, and the Department of Water Resources.



(c) The department may provide support and assistance to a local government program to enable the program to meet all of the following requirements:

(1) The program will be operated by a local government or its designee.

(2) The program will adopt industry-specific standards for green business certification, or its equivalent, in consultation with the other participants in the California Green Business Program.

(3) The program will grant a small business that voluntarily applies to the program a green business certification or its equivalent, only upon a determination by the program operator or designee that the business is a small business, as determined by the program, and complies with the industry-specific standards for green business certification adopted pursuant to paragraph (2).

(4) The program will grant a green business certification, or its equivalent, to small businesses, as determined by the program, in accordance with all of the following requirements:

(A) Before the program grants green business certification or its equivalent, the program conducts an evaluation to verify compliance with the appropriate green business certification standards adopted pursuant to paragraph (2).

(B) A green business certification or its equivalent is granted only to an individual location of a small business.

(C) A green business certification or its equivalent is granted to an individual small business only for a limited time period, and, after the elapse of that time period, the small business is required to reapply for that certification.



(D) Compliance with applicable federal, state, and local environmental laws and regulations is required as a condition of receiving a green business certification or its equivalent.

(d) The department ~~shall~~ may determine, in consultation with the advisory committee, the most effective methods to promote implementation of ~~source reduction~~ pollution prevention education programs by CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs. Program elements may include, but are not limited to, all of the following:

(1) Sponsoring workshops, conferences, technology fairs, and other training events.

(2) Sponsoring regional training groups, such as the regional hazardous waste reduction committees.

(3) Developing and distributing educational materials, such as short descriptions of successful ~~source reduction~~ pollution prevention projects and materials explaining how ~~source reduction~~ pollution prevention has been used by businesses to achieve compliance with environmental laws enforced by local governments.

(4) Developing site review checklists, training manuals, and technical resource manuals and using those resources to train CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs.

(5) Preparing and distributing resource lists such as lists of vendors, consultants, or providers of financial assistance for ~~source reduction~~ pollution prevention projects.



(6) Serving as an information clearinghouse to support telephone and onsite consultants with local governments.

~~(e) Each fiscal year, the department shall provide training and information resources to at least 90 percent of CUPAs.~~

SEC. 13. Section 25244.18 of the Health and Safety Code is amended to read:

~~25244.18. (a) On or before September 15, 1991, and every two years thereafter, the department shall select at least two categories of generators by SIC Code with potential for source reduction, and, for each category, shall do all of the following:~~

~~(1) Request that selected generators in the category provide the department, on a timely basis, with a copy of the generator's completed review and plan and with a copy of the generator's completed report.~~

~~(2) Examine the review and plan and the report of selected generators in the category.~~

~~(3) Ensure that the selected generators in that category comply with Sections 25244.19 and 25244.20.~~

~~(4) Identify successful source reduction and other hazardous waste management approaches employed by generators in the category and disseminate information concerning those approaches to generators within the category.~~

~~(b) In carrying out subdivision (a), the department shall not disseminate information determined to be a trade secret pursuant to Section 25244.23.~~

~~(e)~~

25244.18. (a) The department or the unified program agency may request from any generator, and the generator shall provide within 30 days from the date of the



request, a copy of the generator's review and plan or report conducted and completed pursuant to Section 25244.19 or 25244.20. The department or the unified program agency may evaluate any of those documents submitted to the department or the unified program agency to determine whether it satisfies the requirements of this article.

(d)

(b) (1) If the department or the unified program agency determines that a generator has not completed the review and plan in the manner required by Section 25244.19, or the report in the manner required by Section 25244.20, the department or the unified program agency shall provide the generator with a notice of noncompliance, specifying the deficiencies in the review and plan or report identified by the department. If the department or the unified program agency finds that the review and plan does not comply with Section 25244.19, the department or the unified program agency shall consider the review and plan to be incomplete. A generator shall file a revised review and plan or report correcting the deficiencies identified by the department or the unified program agency within 60 days from the date of the receipt of the notice. The department or the unified program agency may grant, in response to a written request from the generator, an extension of the 60-day deadline, for cause, except that the department or the unified program agency shall not grant that extension for more than an additional 60 days.

(2) If a generator fails to submit a revised review and plan or report complying with the requirements of this article within the required period, or if the department or unified program agency determines that a generator has failed to implement the measures included in the generator's review and plan for reducing the generator's



hazardous waste, in accordance with Section 25244.19, the department or the unified program agency may impose civil penalties pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2, seek an order directing compliance pursuant to Section 25181, or enter into a consent agreement or a compliance schedule with the generator.

~~(e)~~

(c) If a generator fails to implement a measure specified in the review and plan pursuant to paragraph (5) of subdivision (b) of Section 25244.19, the generator shall not be deemed to be in violation of Section 25244.19 for not implementing the selected measure if the generator does both of the following:

(1) The generator finds that, upon further analysis or as a result of unexpected consequences, the selected measure is not technically feasible or economically practicable, or if the selected approach has resulted in any of the following:

(A) An increase in the generation of hazardous waste.

(B) An increase in the release of hazardous chemical contaminants to other media.

(C) Adverse impacts on product quality.

(D) A significant increase in the risk of an adverse impact to human health or the environment.

(2) The generator revises the review and plan to comply with the requirements of Section 25244.19.

~~(f)~~



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(d) When taking enforcement action pursuant to this article, the department or the unified program agency shall not judge the appropriateness of any decisions or proposed measures contained in a review and plan or report, but shall only determine whether the review and plan or report is complete, prepared, and implemented in accordance with this article.

~~(g)~~

(e) In addition to the unified program agency, an appropriate local agency that has jurisdiction over a generator's site may request from the generator, and the generator shall provide within 30 days from the date of that request, a copy of the generator's current review and plan and report.

(f) In carrying out this article, the department shall not disseminate information determined to be a trade secret pursuant to Section 25244.23.

SEC. 14. Section 25244.19 of the Health and Safety Code is amended to read:

25244.19. (a) On or before September 1, 1991, and every four years thereafter, each generator shall conduct a source reduction evaluation review and plan pursuant to subdivision (b).

(b) Except as provided in subdivision (c), the source reduction evaluation review and plan required by subdivision (a) shall be conducted and completed for each site pursuant to the format adopted pursuant to subdivision (a) of Section 25244.16 and shall include, at a minimum, all of the following:

- (1) The name and location of the site.
- (2) The SIC Code of the site.



(3) Identification of all routinely generated hazardous waste streams that annually weigh 600 kilograms or more and that result from ongoing processes or operations and exceed 5 percent of the total yearly weight of hazardous waste generated at the site, or, for extremely hazardous waste, that annually weigh 0.6 kilograms or more and exceed 5 percent of the total yearly weight of extremely hazardous waste generated at the site. For purposes of this paragraph, a hazardous waste stream identified pursuant to this paragraph shall also meet one of the following criteria:

(A) It is a hazardous waste stream processed in a wastewater treatment unit that discharges to a publicly owned treatment works or under a national pollutant discharge elimination system (NPDES) permit, as specified in the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 and following).

(B) It is a hazardous waste stream that is not processed in a wastewater treatment unit and its weight exceeds 5 percent of the weight of the total yearly volume at the site, less the weight of any hazardous waste stream identified in subparagraph (A).

(4) For each hazardous waste stream identified in paragraph (3), the review and plan shall include all of the following information:

(A) An estimate of the quantity of hazardous waste generated.

(B) An evaluation of source reduction approaches available to the generator that are potentially viable. The evaluation shall consider at least all of the following source reduction approaches:

(i) Input change.

(ii) Operational improvement.

(iii) Production process change.



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(iv) Product reformulation.

(5) A specification of, and a rationale for, the technically feasible and economically practicable source reduction measures that will be taken by the generator with respect to each hazardous waste stream identified in paragraph (3). The review and plan shall fully document any statement explaining the generator's rationale for rejecting any available source reduction approach identified in paragraph (4).

(6) An evaluation, and, to the extent practicable, a quantification, of the effects of the chosen source reduction method on emissions and discharges to air, water, or land.

(7) A timetable for making reasonable and measurable progress towards implementation of the selected source reduction measures specified in paragraph (5).

(8) Certification pursuant to subdivision (d).

(9) ~~Any~~ A generator subject to this article shall include in its source reduction evaluation review and plan four-year numerical goals for reducing the generation of hazardous waste streams through the approaches provided for in subparagraph (B) of paragraph (4), based upon its best estimate of what is achievable in that four-year period.

(10) A summary progress report that briefly summarizes and, to the extent practicable, quantifies, in a manner that is understandable to the general public, the results of implementing the source reduction methods identified in the generator's review and plan for each waste stream addressed by the previous plan over the previous four years. The report shall also include an estimate of the amount of reduction that the generator anticipates will be achieved by the implementation of source reduction



methods during the period between the preparation of the review and plan and the preparation of the generator's next review and plan. ~~Notwithstanding any other provision of this section, the summary progress report required to be prepared pursuant to this paragraph shall be submitted to the department on or before September 1, 1999, and every four years thereafter.~~

(c) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite review and plan addressing all of these sites.

(d) Every review and plan conducted pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor who is registered pursuant to Section 25570.3 and who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the review and plan only if the review and plan meet all of the following requirements:

- (1) The review and plan addresses each hazardous waste stream identified pursuant to paragraph (3) of subdivision (b).
- (2) The review and plan addresses the source reduction approaches specified in subparagraph (B) of paragraph (4) of subdivision (b).
- (3) The review and plan clearly sets forth the measures to be taken with respect to each hazardous waste stream for which source reduction has been found to be



technically feasible and economically practicable, with timetables for making reasonable and measurable progress, and properly documents the rationale for rejecting available source reduction measures.

(4) The review and plan does not merely shift hazardous waste from one environmental medium to another environmental medium by increasing emissions or discharges to air, water, or land.

(e) At the time a review and plan is submitted to the department or the unified program agency, the generator shall certify that the generator has implemented, is implementing, or will be implementing, the source reduction measures identified in the review and plan in accordance with the implementation schedule contained in the review and plan. A generator may determine not to implement a measure selected in paragraph (5) of subdivision (b) only if the generator determines, upon conducting further analysis or due to unexpected circumstances, that the selected measure is not technically feasible or economically practicable, or if attempts to implement that measure reveal that the measure would result in, or has resulted in, any of the following:

- (1) An increase in the generation of hazardous waste.
- (2) An increase in the release of hazardous chemicals to other environmental media.
- (3) Adverse impacts on product quality.
- (4) A significant increase in the risk of an adverse impact to human health or the environment.

(f) If the generator elects not to implement the review and plan, including, but not limited to, a selected measure pursuant to subdivision (e), the generator shall amend



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its review and plan to reflect that election and include in the review and plan proper documentation identifying the rationale for that election.

SEC. 15. Section 25244.21 of the Health and Safety Code is amended to read:

25244.21. (a) Every generator shall retain the original of the current review and plan and report, shall maintain a copy of the current review and plan and report at each site, or, for a multisite review and plan or report, at a central location, and upon request, shall make it available to any authorized representative of the department or the unified program agency conducting an inspection pursuant to Section 25185. If a generator fails, within five days, to make available to the inspector the review and plan or report, the department, the unified program agency, or any authorized representative of the department, or of the unified program agency, conducting an inspection pursuant to Section 25185, shall, if appropriate, impose a civil penalty pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2.

(b) If a generator fails to respond to a request for a copy of its review and plan or report made by the department or a unified program agency pursuant to subdivision ~~(e)~~ (a) of Section 25244.18, or by a local agency pursuant to subdivision ~~(g)~~ (e) of Section 25244.18, within 30 days from the date of the request, the department or unified program agency shall, if appropriate, assess a civil penalty pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2.

(c) (1) ~~Any~~ A person may request the department to certify that a generator is in compliance with this article by having the department certify that the generator has



properly completed the review and plan and report required pursuant to Sections 25244.19 and 25244.20. The department shall respond within 60 days to a request for certification. Upon receiving a request for certification, the department shall request from the generator, who is the subject of the request, a copy of the generator's review and plan and report, pursuant to subdivision (e) of Section 25244.19 (a) of Section 25244.18, if the department does not have these documents. The department shall forward a copy of the review and plan and report to the person requesting certification, within 10 days from the date that the department receives the request for certification or receives the review and plan and report, whichever is later. The department shall protect trade secrets in accordance with Section 25244.23 in a review and plan or report, requested to be released pursuant to this subdivision.

(2) This subdivision does not prohibit any person from directly requesting from a generator a copy of the review and plan or report. Solely for the purposes of responding to a request pursuant to this subdivision, the department shall deem the review and plan or report to be a public record subject to Section 25152.5, and shall act in compliance with that section.

SEC. 16. Section 25244.22 of the Health and Safety Code is amended to read:

25244.22. ~~Commencing May 1, 2000, and on or before January 15 of every other year thereafter, the department shall prepare,~~ (a) The department may, on a periodic basis, prepare and make available for public review ~~within five days thereafter,~~ a draft work plan for the department's operations and activities in carrying out this article. The department shall prepare the work plan in consultation with the advisory committee and with other interested parties, including local government, industry,



labor, health, and environmental organizations. ~~After holding~~ The department shall hold a public meeting of the advisory committee to discuss the draft work plan, the department shall finalize the work plan on or before June 15, 2000, and on or before April 1 of every other year thereafter. The department may include this work plan within the report required pursuant to Section 25171, before finalizing the work plan. This work plan shall ~~include, but not be limited to, all of the following information:~~ include an outline of the department's proposed operations and activities under this article. The department shall use the data summary analysis prepared pursuant to subdivision (b) to develop criteria for the selection of targets for pollution prevention efforts. When identifying activities for inclusion in the work plan, the department shall consider potential benefits to human health and the environment, available resources, feasibility of applying pollution prevention techniques, and availability of related resources from other entities, such as other states, the federal government, local governments, and other organizations.

(a) ~~A~~

(b) The department may periodically prepare, and make available to the public on its Internet Web site, a summary analysis of readily available data on the state's hazardous waste generation and management patterns. The analysis shall may include information from various data sources including hazardous waste manifests, biennial generator reports, and United States Environmental Protection Agency Toxics Release Inventory reports. The department shall estimate the quantities of hazardous waste generated in the state, by hazardous waste stream, the amounts of hazardous waste



generated in the state by industry SIC or NAICS Code, and the amounts of hazardous waste state generators sent offsite for management, by management method.

~~(b) An evaluation of hazardous waste source reduction progress in this state, using the data summary analysis prepared pursuant to subdivision (a).~~

~~(c) Recommendations for legislation.~~

~~(d) Identification of any state, federal, or private economic and financial incentives that can best accelerate and maximize the research and development of source reduction and other hazardous waste management technologies and approaches.~~

~~(e) The status, funding, and results of all research projects.~~

~~(f) A detailed summary of the extent to which the statewide goal of 5 percent per year reduction of the generation of hazardous wastes, pursuant to subdivision (c) of Section 25244.15, has been attained, and a detailed summary of the extent to which different categories of facilities have attained the numerical goals established pursuant to paragraph (9) of subdivision (b) of Section 25244.19. This summary, which shall use the data summary analysis prepared pursuant to subdivision (a), shall include an evaluation by the department of the reasons why these goals have or have not been attained, including an evaluation of the impact of economic growth or decline and changes in production patterns, and a list of appropriate recommendations designed to ensure attainment of these goals.~~

~~(g) An outline of the department's operations and activities under this article proposed for the next two-year period. The department shall use the data summary analysis prepared pursuant to subdivision (a) to select hazardous waste stream and industries for source reduction efforts. When identifying activities for inclusion in the~~



~~work plan, the department shall also consider potential benefits to human health and the environment, available resources, feasibility of applying source reduction techniques to reduce selected hazardous waste streams and to reduce hazardous wastes generated by selected industries, and availability of related resources from other entities, such as other states, the federal government, local governments, and other organizations.~~

SEC. 17. Section 25244.23 of the Health and Safety Code is amended to read:

25244.23. (a) (1) The department shall adopt regulations to ensure that trade secrets designated by a generator in all or a portion of the review and plan or the report required by this article are utilized by the director, the department, the unified program agency, or the appropriate local agency only in connection with the responsibilities of the department pursuant to this article, and that those trade secrets are not otherwise disseminated by the director, the department, the unified program agency, or any authorized representative of the department, or the appropriate local agency, without the consent of the generator.

(2) Any information subject to this section shall be made available to governmental agencies for use in making studies and for use in judicial review or enforcement proceedings involving the person furnishing the information.

(3) As provided by Section 25159.5, the regulations adopted pursuant to this subdivision shall conform with the corresponding trade secret regulations adopted by the Environmental Protection Agency pursuant to the federal act, except that the regulations adopted by the department may be more stringent or more extensive than the federal trade secret regulations.



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(4) "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information that is not patented, that is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value, and that gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(b) The department, the unified program agency, and the appropriate local agency shall protect from disclosure any trade secret designated by the generator pursuant to this section. The department shall make available information concerning ~~sourcee~~ reduction pollution prevention approaches that have proved successful, and that do not constitute a trade secret, when carrying out subdivision (c) of Section 25244.17 ~~and to subdivision (a) of Section 25244.18.~~

(c) This section does not permit a generator to refuse to disclose the information required pursuant to this article to the department, the unified program agency, or the appropriate local agency, an officer or employee of the department, the unified program agency, or the appropriate local agency, in connection with the official duties of that officer or employee under this article.

(d) Any officer or employee of the department, the unified program agency, or the appropriate local agency, or any other person, who, because of his or her employment or official position, has possession of, or has access to, confidential information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any



manner to any person not entitled to receive it, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

SEC. 18. Section 25244.24 of the Health and Safety Code is repealed.

~~25244.24. (a) For purposes of this section the following definitions shall apply:~~

~~(1) "Program" means the voluntary program to reduce hazardous waste generation established by this section.~~

~~(2) "Release" means a release of a chemical into the environment in any manner and by any means. "Release" includes, but is not limited to, any release authorized or permitted pursuant to a statute, ordinance, regulation, or rule of any federal, state, local, or regional agency or government or by a permit, license, variance or other authorization from the agency or government.~~

~~(b) On or before October 1, 2000, the department shall, in consultation with the advisory committee established pursuant to Section 25244.15.1, conduct an inventory and analysis of low-cost voluntary programs that are, or have been conducted by other states, the federal government, or local government entities to reduce hazardous waste generation and other environmental releases of toxic chemicals, and shall develop recommendations for programs that would be effective and feasible in California, based on the inventory and analysis.~~

~~(c) In consultation with the advisory committee, large businesses, and the public, the department shall develop a low-cost voluntary program to further reduce generation of hazardous waste by large businesses in California. The program shall be designed~~



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~~to promote cooperative relationships between California business and the department, while creating a significant environmental benefit from reduced hazardous waste generation. The department shall include the program in the work plan required by Section 25244.22 on or before January 15, 2002.~~

~~(d) In designing and implementing the program the department shall take into consideration all of the following:~~

~~(1) Estimates of the volumes of potential reductions of hazardous waste generation and other possible program benefits.~~

~~(2) The types of facilities expected to participate and their current hazardous waste generation and other releases of toxic chemicals into the environment.~~

~~(3) The potential for reductions in hazardous waste generation resulting in an increase in releases of toxic chemicals to a different environmental medium.~~

~~(4) The potential public health and environmental benefits of the program.~~

~~(5) Methods for publicizing the program and encouraging facilities throughout the state to participate in the program.~~

~~(6) Providing appropriate public recognition of facilities that successfully are participating in the program.~~

~~(7) Establishing a means for monitoring the progress that each facility participating in the program is making toward implementing the program.~~

~~(8) Establishing methods for evaluating the implementation of the inventory, analysis, and program and for reporting on the progress of the program in the work plan required pursuant to Section 25244.22.~~



~~(9) Procedures for providing technical support to program participants to assist with the implementation of the program.~~

~~(c) Participation in the program shall not create a presumption that the participating facility has determined that any chemical release reduction measure is technically feasible or economically practicable pursuant to any other provision of law.~~

~~(f) Actions of the department pursuant to this section are exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.~~

~~(g) If, on the basis of the inventory and analysis required by in subdivision (b), the department finds that it is not possible to design and implement, at relatively low cost, a voluntary program to promote cooperative relationships between California business and the department, while creating a significant environmental benefit, and the advisory committee concurs with this finding, the department is not required to implement the program.~~

SEC. 19. The sum of one thousand dollars (\$1,000) is hereby appropriated from the Hazardous Waste Control Account to the Department of Toxic Substances Control to implement the changes made by this act to Article 11.8 (commencing with Section 25244) of, and Article 11.9 (commencing with Section 25244.12) of, Chapter 6.5 of Division 20 of the Health and Safety Code.

SEC. 20. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California



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Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Hazardous materials: source reduction: pollution prevention.

(1) Existing law, the Hazardous Waste Reduction, Recycling, and Treatment Research and Demonstration Act of 1985, requires the Department of Toxic Substances Control to establish a Hazardous Waste Technology, Research, Development, and Demonstration Program, consisting of specified elements.

This bill would provide that the department's duty to implement that act is contingent upon, and limited to, the availability of funding, except as specified.

(2) The existing Hazardous Waste Source Reduction and Management Review Act of 1989 requires the department to establish a program for hazardous waste source reduction and provides for the creation and nonoperation of the California Source Reduction Advisory Committee. The act requires the department to establish, with regard to source reduction, various programs, including a technical and research



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assistance program, a technical assistance and outreach program, and a California Green Business Program.

This bill would rename the act the Pollution Prevention and Hazardous Waste Source Reduction and Management Review Act (act) and would instead provide for the creation of the California Pollution Prevention Advisory Committee, with specified membership and duties. The bill would delete the requirement that the department establish those source reduction technical assistance, research, and outreach programs and would instead authorize the department to establish a technical and research program to assist businesses in identifying and applying pollution prevention methods, to establish a technical assistance and outreach program to promote implementation of model pollution prevention measures for priority business categories, and to provide pollution prevention and training resources. The bill would also make discretionary the development of the California Green Business Program.

This bill would provide that the department's duty to implement the act is contingent upon, and is limited to, the availability of funding, except as provided with regard to the requirements imposed upon generators.

(3) The department is required, under the act, to select at least 2 categories of generators every 2 years, for specified enforcement activities, and is authorized to request, from any generator subject to the act, a copy of the generator's source reduction evaluation review and plan. A generator is required to provide the review and plan to the department or unified program agency, upon request.

The bill would delete the requirements that the department select at least 2 categories of generators every 2 years, for those enforcement activities.



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(4) The act requires the department to prepare a draft work plan once every 2 years, with specified information.

This bill would instead authorize the department to prepare a work plan on a periodic basis, and would revise the information included in the work plan.

(5) Existing law requires the department to develop a low-cost voluntary program to reduce the generation of hazardous waste by large businesses.

This bill would repeal that requirement. The bill would also make conforming and technical changes.

(6) The bill would appropriate \$1,000 from the Hazardous Waste Control Account to the Department of Toxic Substances Control to implement the changes made by the bill.

(7) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

